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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,137	10/24/2003	Mesut Gunduc	BEAS-01119US1	1772
23910	7590	08/25/2006	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/693,137	<b>Applicant(s)</b> GUNDUC ET AL.	
	<b>Examiner</b> Cristina Owen Sherr	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s), 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2006 has been entered.
2. Claims 1 and 12 have been amended. Claims 23-26 have been canceled. Claims 27-30 have been newly added. Claims 1-22 and 27-30 are currently pending in this case.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-20, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kampe et al., U.S. Patent 6,854,069 [Kampe].
6. Regarding claims 1, 12, and 27-30:

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7. The recitation, "A system/ method for providing a high availability clustering ...; A system/method for providing resource groups in a cluster ..., and A system/method for high availability clustering,..." has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method, a system, an apparatus, etc. and the portion of the claim following the preamble is a self-contained description of the method or the system, etc., not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951)

8. Kampe discloses: a computer that allows a user or application to access a set of resources of various resource types, including application servers, said resources available at said computer or at another computer; for example Fig. 1; Col. 4-5, lines 55-67 and 1-26 respectively.

a cluster server that operates at said computer and that allows access to said set of resources; for example Col. 8, lines 16-50:

a resource interface provided by said cluster server that allows the cluster server to communicate with said set of resources and a plurality of plugins that are plugged into the resource interface to provide a mapping between the system's resource management functions and any resource type-specific functionality, wherein each one of said plurality of plugins provides access to a pool of resources of a particular resource type, and wherein each pool of resources includes a plurality of resources of that particular type for example Col. 5, lines 35-40, Col 6, lines 35-45.

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9. Kampe discloses the claimed invention except for wherein additional plugins may be included in the resource interface for other resource types. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to wherein additional plugins may be included in the resource interface for other resource types, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

and, wherein adding additional computers with cluster servers and resource interfaces operating thereon can extend the system. for example Col. 5, lines 45-60.

10. Regarding claims 2 and 13:

11. Kampe further discloses wherein each of said cluster servers includes a heartbeat interface that provides heartbeat information to other cluster servers at said other application servers. for example Col. 13, lines 23-33.

12. Regarding claims 3 and 14:

13. Kampe further discloses wherein the system is Java-based. Col. 20, lines 20-63.

14. As per claims 4 and 15:

15. Kampe discloses the claimed invention except for wherein the system includes a JNDI interface that provides an interface between the cluster server and a JNDI-compliant database. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to wherein the system includes a JNDI interface that provides an interface between the cluster server and a JNDI-compliant database since it is known in the art that specific interfaces require same as specific compliant

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databases. Further, Kampe teaches the use of different interfaces for external management services 202. Col. 5, lines 45-55.

16. Regarding claims 5 and 16:

17. Kampe further discloses wherein the system includes a cluster administration utility for accessing and administering the cluster server using remote method invocation calls. Col. 20, lines 15-23.

18. Regarding claims 6 and 17:

19. Kampe further discloses wherein each resource has a resource type associated with it. Col. 20, lines 15-23.

20. Regarding claims 7 and 18:

21. Kampe further discloses wherein resources are the object instances of their respective resource types. Col. 20, lines 15-23.

22. Regarding claims 8 and 19:

23. Kampe further discloses wherein a resource is any of a computer, Internet protocol address, disk, database, or file system or application. Col. 20, lines 15-23.

24. Regarding claims 9 and 20:

25. Kampe further discloses wherein the cluster server defines resource groups that includes clusters of resources. Col. 9, lines 15-25.

26. Claims 10, 11, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kampe as applied to claims 1-9, 12-20, and 23-26 above, and further wherein Kampe discloses wherein the cluster server defines resource groups that includes clusters of resources. Col. 9, lines 15-25.

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in view of Wachtel U.S. Patent 6,847,974 B2 [Wachtel] and Burdeau U.S. Patent 6,868,442 B1 [Burdeau].

27. Regarding claims 10 and 21:

28. Kampe discloses the claimed invention except for the wherein the plugins include a WebLogic plugin. However, Kampe does disclose the use of plugins. Col. 5, lines 35-43. Wachtel teaches that it is known in the art to provide wherein the plugins include a WebLogic plugin. Col. 9, lines 10-26 and Col. 13, lines 1-9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plug-in components of Kampe with the WebLogic of Wachtel in order to provide the intelligent data assimilation system the ability to design and automate business processes that integrate data provider applications, search services, and human intervention.

29. Regarding claims 11 and 22:

30. Kampe discloses the claimed invention except for the wherein the plugins include a Tuxedo plugin. However, Kampe does disclose the use of plugins. Col. 5, lines 35-43. Burdeau teaches that it is known in the art to provide wherein the plugins include a Tuxedo plugin. Col. 6, lines 40-67 and Col. 7, lines 20-67. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plug-in components of Kampe with the Tuxedo of Burdeau in order to provide the intelligent data assimilation system the ability to design and automate business processes that integrate data provider applications, search services, and human intervention.

31. Kampe discloses the claimed invention except for the wherein the plugins include a Tuxedo plugin. However, Kampe does disclose the use of plugins. Col. 5, lines 35-43.

31. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

#### **Conclusion**

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

COS, 08/17/06

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*John J. [Signature]*  
PRIMARY EXAMINER

DATE 08-17-06 BY 3621/PAIR

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